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REMARKS

Entry of this Amendment is proper because it does <u>not</u> raise any new issues requiring further search by the Examiner, narrows the issues on appeal, and is believed to place the present application in condition for immediate allowance.

<u>It is noted that this Amendment is filed within two-months of the Office Action.</u> Thus, should any extension of time fees become necessary due to the issuance of an Advisory Action, any extension of time fees should be calculated from the date of the Office Action or the mailing date of the Advisory Action, whichever is later.

Claims 1-24 are pending in the application.

It is noted that the claim amendments are made only for more particularly pointing out the invention, and <u>not</u> for distinguishing the invention over the prior art, narrowing the claims or for any statutory requirements of patentability. Further, Applicant specifically states that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Claims 1-24 stand rejected on prior art grounds under 35 U.S.C. § 102(e) as being anticipated by Roll (U.S. Patent Application Publication 2002/0016779).

These rejections are respectfully traversed in view of the following discussion.

I. THE CLAIMED INVENTION

In the illustrative, non-limiting embodiment of the claimed invention, as defined in independent claim 1, is directed to a method for conducting electronic commerce that comprises

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electronically visiting, by a customer interested in shopping for an item, a preselected comparison

shopping site (CompShop), and inquiring about the item and comparative prices thereof, running,

by the preselected comparison shopping site, a query on a plurality of electronic stores carrying

the item, and asking for a price of the item, the plurality of electronic stores including at least one

smartStore, <u>determining by the at least one smartStore that the query is received from the</u>

<u>preselected comparison shopping site, and selectively determining, by the smartStore, an offer</u>

<u>price of the item and selectively returning one of a static price and a modified price, the modified</u>

<u>price resulting from the smartStore learning a best offer price received by the preselected</u>

<u>comparison shopping site</u> from the plurality of electronic stores.

Independent claims 22-24 define other exemplary systems and methods which recite

somewhat similar features as independent claim 1.

An aspect of the claimed invention as exemplarily defined by independent claims 1 and

22-24 provides that if the customer has accessed a preselected comparison shopping site, **then a**

smartStore, which recognizes <u>the price query as originating from the preselected comparison</u>

<u>shopping site,</u> **may determine** <u>that a modified price based on competitive prices and a profit</u>

<u>margin is necessary</u>. On the other hand, if the customer has <u>not</u> accessed the preselected

comparison shopping site, **the smartStore can determine** to return a static, i.e., standard price.

The above operation can be compared to the traditional model of "coupon clipping" or

"mail in rebates." Stores, i.e., those stores which are analogous to the smartStore, typically give

a special price to customers who bring in coupons, where the coupon represents "shopping"

through a medium, for example, a newspaper in which the store has advertised. Bringing in the

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newspaper coupon is analogous to accessing the <u>preselected comparison shopping site</u> of the

invention. However, the stores rely on the fact that there will be many customers who do not clip

coupons or who will forget to turn in the mail-in rebates (e.g., see specification, page 3, lines 19-

22).

II.   THE PRIOR ART REJECTIONS

Claims 1-24 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Roll.

For the Examiner's convenience, Applicant's traversal arguments set forth in the

Amendment under 37 C.F.R. § 1.111 filed on June 7, 2004, are incorporated herein by reference

in their entirety.

In the Amendment under 37 C.F.R. § 1.111 filed on June 7, 2004, Applicant argued that

Roll does <u>not</u> disclose or suggest <u>selectively determining</u>, **by the smartStore**, an offer price of

the item <u>and selectively returning</u> one of a static price <u>and</u> a modified price, <u>the modified price</u>

<u>resulting from the smartStore learning a best offer price received by the preselected</u>

<u>comparison shopping site</u> <u>from the plurality of electronic stores</u>, as claimed, for example, by

independent claims 1 and 22-24.

In the Response to Arguments, the Examiner alleges that "*Roll does disclose (paragraph*

0052) a method wherein a user can access a host in order to facilitate the input of an item (i.e.,

product and service) request. The system determines if the requested item is or will be offered by

the host provider. If the host provider offers the requested item, then the requested item request

data is <u>dispatched to a pricing engine</u>. The <u>pricing engine provides the price</u> (modified price)

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that the host provider is willing to extend to the user. The terms of the offer for the item from the

host provider is combined with the terms of offer information returned from other

product/service providers (static price) to produce (sic) a consolidated comparative list. This

combined data is then formatted for transmission and presentation to the user" (see Office

Action at page 7, lines 9-18; emphasis Applicant's).

The Examiner further notes that *"the specification of the instant invention (page 3)*

discloses that the modified price, results from at least one of the electronic stores learning the

best (e.g., lowest or highest offer price depending upon the embodiment) price received. Via the

modified price a store can appropriately price a commodity if the request is made through a

comparison-shopping site" (see Office Action at page 7, lines 19-21 and page 8, lines 1-2;

emphasis Applicant's).

The Examiner alleges that *"[t]his is equivalent to the method of Roll, whereby if there is*

a sufficient price differential for the host provider's minimum margin, then the host provider

uses a pricing algorithm or pricing model to produce the terms of offer for the item (paragraph

0063)" (see Office Action at page 8, lines 3-5; emphasis Applicant's).

The Examiner further states that *"[t]he Attorney argues that unlike the host system in*

Roll that actively adjusts the offered price, the comparison-shopping site of the claimed invention

acts as a neutral mediator between competing sites" (see Office Action at page 8, lines 6-8). The

Examiner alleges, however, that this feature is not recited in the rejected claims.

However, for the following reasons, Applicant respectfully submits that the Roll

reference does <u>not</u> disclose or suggest <u>all</u> of the features of amended claims 1 and 22-24.

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Therefore, Applicant respectfully traverses this rejection.

First, contrary to the Examiner's position, Applicant respectfully submits that the claimed

invention <u>does</u> recite that the **smartStore** <u>selectively determines</u> an offer price of the item and

selectively returning one of a static price and a modified price to the comparison shopping site,

<u>**not**</u> that the **comparison shopping site** actively sets the price.

For example, independent claim 1 recites, *inter alia*, a method for conducting electronic

commerce, including:

> <u>determining by the at least one</u> **smartStore** <u>that the query is</u>
> <u>received from the preselected comparison shopping site</u>; and

> <u>selectively determining,</u> **by the smartStore,** <u>an offer price</u> of
> the item and selectively returning one of a static price and a
> modified price, <u>the modified price resulting from the smartStore</u>
> <u>learning a best offer price received by the preselected comparison</u>
> <u>shopping site from the plurality of electronic stores</u> (emphasis
> added).

The present invention provides a novel and unobvious method and system wherein all

participating sites (some of them **smartStores** and others not) compete <u>by offering lower prices</u>

based upon the fact that there is a comparison shopping site that is making them participate in a

dynamic pricing competition. The <u>participating sites (**not** the comparison shopping site) offer</u>

<u>competitive prices based on the fact that they are participating in a system of comparative</u>

<u>shopping</u>. Because the request for price comes *through* <u>the comparison shopping site</u>, and <u>not</u>

from a direct user, <u>the</u> **smartStore knows that it is participating in a system of comparative**

<u>shopping and</u> **the smartStore may offer a better price**.

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In comparison, contrary to the Examiner's position, the **host system** in Roll actively

adjusts the offered price, not the product/service providers. Indeed, as the Examiner specifically

acknowledges in the present Office Action, in Roll "[t]*he system determines if the requested item*

is or will be offered by the host provider. If the host provider offers the requested item, then the

requested item request data is dispatched to a pricing engine. The pricing engine provides the

price (modified price) that the host provider is willing to extend to the user. The terms of the

offer for the item from the host provider is combined with the terms of offer information returned

from other product/service providers (static price) to produce (sic) a consolidated comparative

list " (see Office Action at page 7, lines 9-18; emphasis Applicant's).

As the Examiner specifically acknowledges, the product/service provider of Roll returns

only the static price. On the other hand, it is the host provider that determines, using the price

engine, "*the price (modified price) that the host provider is willing to extend to the user*" (see

Office Action at id.).

Thus, Applicant respectfully submits that Roll clearly does not disclose or suggest

"selectively determining, **by the smartStore**, an offer price of the item and selectively returning

one of a static price and a modified price, the modified price resulting from the smartStore

learning a best offer price received by the preselected comparison shopping site from the plurality

of electronic stores" as claimed in the exemplary embodiments defined by independent claims 1

and 22-24 (emphasis added).

While Applicant believes that the claims as currently written clearly are not anticipated by

Roll, to speed prosecution, Applicant amends independent claims 1 and 22-24 to define more

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clearly that <u>the smartStore selectively determines</u> one of the static price and the modified price

<u>based on learning the best offer price</u> received by the preselected comparison shopping site from

the plurality of electronic stores, <u>not</u> the comparison shopping site as in Roll.

For example, in contrast to the claimed invention, Roll discloses that <u>the host system</u>

<u>adjusts the price</u> offered based upon prices listed by other sites and the affordability of the host

system itself. <u>That is, the host system decides what price to offer to the end users,</u> <u>not</u> the

product/service provider (e.g., the smartStore).

Thus, Roll clearly does <u>not</u> disclose, suggest, or even mention selectively determining, <u>by</u>

<u>the smartStore,</u> an offer price of the item and selectively returning one of a static price and a

modified price, wherein <u>one of the static price and the modified price result selectively returned</u>

<u>is based on the smartStore learning a best offer price received by the preselected comparison</u>

<u>shopping site from the plurality of electronic stores,</u> as claimed by independent claims 1 and 22-

24.

For the foregoing reasons, Applicant respectfully submits that claims 1-24 clearly are <u>not</u>

anticipated by, or rendered obvious from, Roll. Therefore, Applicant respectfully requests that

the Examiner withdraw this rejection and permit these claims to pass to allowance.

III.   CONCLUSION

In view of the foregoing, Applicant submits that claims 1-24, all the claims presently

pending in the application, are patentably distinct over the prior art of record and are in condition

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for allowance. The Examiner is respectfully requested to pass the above application to issue at

the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the

Examiner is requested to contact the undersigned at the local telephone number listed below to

discuss any other changes deemed necessary in a telephonic or personal interview.

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any

overpayment in fees to Assignee's Deposit Account No. 09-0441.

                                          Respectfully Submitted,

Date: _November 10, 2004_

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CERTIFICATE OF TRANSMISSION

I certify that I transmitted via facsimile to (703) 872-9306 the enclosed Amendment
under 37 C.F.R. § 1.116 to Examiner Matthew S. Gart on November 10, 2004.

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